

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

RONALD BRADBERRY,

Plaintiff,

v.

NEVADA DEPARTMENT OF  
CORRECTIONS, *et al.*,

Defendants.

CASE NO.: 3:11-CV-00668-RCJ-VPC

**ORDER**

Before the Court is the Report and Recommendation (#90) entered on August 9, 2013. Plaintiff filed his Objections to United States Magistrate Judge's Report and Recommendation (#91) on August 14, 2013.

The Court has conducted its *de novo* review in this case, has fully considered the objections of the Plaintiffs, the pleadings and memoranda of the parties and other relevant matters of record pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule IB 3-2. The district court may accept, reject, or modify in whole or in part, the findings and recommendations made by the magistrate judge. Fed. R. Civ. P. 72(b). The Court determines that the Magistrate Judge's Report and Recommendation (#90) entered on August 9, 2013, is adopted and accepted.

IT IS HEREBY ORDERED that Defendants' Motion for Summary Judgment (#41) is GRANTED in PART and DENIED in PART as follows:

IT IS HEREBY ORDERED that Defendants Nevada Department of Corrections and Pollock are DISMISSED from this action with prejudice.

IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment (#41) is GRANTED as to Plaintiff's Eighth Amendment excessive force claim against Defendant Kersten.

1 IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment (#41) is DENIED  
2 as to Plaintiff's Eighth Amendment excessive force claim against Defendants Aten, Henson, Wiley and  
3 Miller.

4 IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment (#41) is  
5 GRANTED as to Plaintiff's First Amendment retaliation claim.

6 IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment (#41) is  
7 GRANTED as to Plaintiff's Fourteenth Amendment due process claim as it relates to submission of false  
8 notice of changes.

9 IT IS FURTHER ORDERED that Plaintiff's Fourteenth Amendment due process claim is  
10 DISMISSED as it relates to Plaintiff's opportunity to call witnesses at his October 27, 2009, disciplinary  
11 hearing.

12 IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment (#41) is  
13 GRANTED as to Plaintiff's supervisory liability claims against all Defendants.

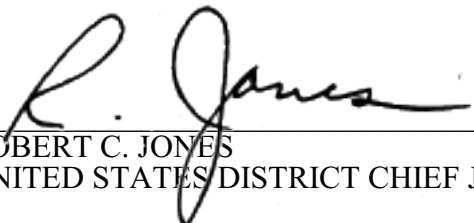
14 IT IS FURTHER ORDERED that Defendant's Motion for Summary Judgment (#41) is DENIED  
15 based on the defense of qualified immunity.

16 IT IS FURTHER ORDERED that all claims for monetary damages against Defendants in their  
17 official capacities is DISMISSED from this action WITH PREJUDICE.

18 IT IS FURTHER ORDERED that the only remaining claim in this action is Plaintiff's Eighth  
19 Amendment excessive force claim against Defendants Aten, Henson, Wiley and Miller. The Clerk of  
20 the Court shall enter judgment accordingly.

21 IT IS SO ORDERED.

22 Dated: This 30<sup>th</sup> day of August, 2013.

23  
24   
25 ROBERT C. JONES  
26 UNITED STATES DISTRICT CHIEF JUDGE  
27  
28